

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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United States of America, )  
 ) File No. 17-CR-234  
 ) (WMW)  
Plaintiff, )  
 )  
vs. ) St. Paul, Minnesota  
 ) September 28, 2017  
Brandon Mark Bjerknes, ) 8:09 a.m.  
 )  
Defendant. )  
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BEFORE THE HONORABLE WILHELMINA M. WRIGHT  
UNITED STATES DISTRICT COURT JUDGE

**(CHANGE OF PLEA HEARING)**

APPEARANCES

For the Plaintiff: U.S. Attorney's Office  
ANGELA M. MUNOZ-KAPHING, AUSA  
600 U.S. Courthouse  
300 South Fourth Street  
Minneapolis, Minnesota 55415

For the Defendant: Wold Morrison Law  
PETER B. WOLD, ESQ.  
247 Third Avenue South  
Minneapolis, Minnesota 55415

Court Reporter: LORI A. SIMPSON, RMR-CRR  
Suite 146  
316 North Robert Street  
St. Paul, Minnesota 55101

Proceedings recorded by mechanical stenography;  
transcript produced by computer.

1                                   P R O C E E D I N G S

2                                   IN OPEN COURT

3                   (Defendant present)

4                   COURTROOM DEPUTY: The matter before the Court  
5 today is 17-CR-234, United States of America vs. Brandon  
6 Mark Bjerknes.

7                   Counsel, will you approach the podium and identify  
8 yourselves for the record, please.

9                   MS. MUNOZ-KAPHING: Good morning, Your Honor.  
10 Angela Munoz-Kaphing on behalf of the United States. With  
11 me at counsel table is Sergeant Jarrett Walton from the  
12 Beltrami County Sheriff's Office.

13                  THE COURT: Thank you. Good morning,  
14 Ms. Munoz-Kaphing.

15                  MR. WOLD: And good morning, Your Honor. Peter  
16 Wold appearing with Mr. Bjerknes, who is present.

17                  THE COURT: Good morning, Mr. Wold. Good morning,  
18 Mr. Bjerknes.

19                  THE DEFENDANT: Good morning.

20                  THE COURT: I'll ask counsel as well as  
21 Mr. Bjerknes to come forward. And we are here today for an  
22 initial appearance, an arraignment, and a guilty plea; is  
23 that correct?

24                  MR. WOLD: That's correct, Your Honor.

25                  THE COURT: So to begin with, Mr. Bjerknes, if

1       there is anything that I say today that you do not hear or  
2       understand, please tell me so that I can clarify it for you.  
3       Do not answer any question that confuses you or that you  
4       don't hear clearly, and do not tell me that you understand  
5       something unless you understand it. Okay?

6               THE DEFENDANT: Yes.

7               THE COURT: Because this is your first appearance  
8       in court in connection with the charges, I have to advise  
9       you of your constitutional rights and other matters at the  
10      outset.

11              You've been charged with the crimes of coercion  
12      and enticement and production of child pornography, which  
13      are felony offenses.

14              You have the right to be represented by an  
15      attorney during these proceedings. You have the right to be  
16      represented by an attorney whom you hire; or if you could  
17      not afford to hire an attorney, you have the right to have  
18      an attorney appointed to represent you without any charge to  
19      you.

20              You also have the right to remain silent. You do  
21      not have to answer any of my questions. If you begin to  
22      answer one of my questions, you can stop at any time and  
23      decide not to say anything more. Any statement that you  
24      make today may be used against you, so you need to  
25      understand that.

1 Sir, are you a United States citizen?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Okay. Mr. Bjerknes, have you received  
4 a copy of the Information, which is the written charges that  
5 the government has made against you?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: And have you read that Information?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: And has Mr. Wold explained the charges  
10 alleged against you in the Information?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: Has Mr. Wold answered all of your  
13 questions about those charges?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Now, the Information charges you with  
16 federal felony offenses. Do you understand that you cannot  
17 be charged with these offenses without an indictment by a  
18 grand jury unless you agree to the charges being filed  
19 through an information; do you understand that?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: And do you give up your right to be  
22 indicted by a grand jury?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: Okay. Do we have a form that shows  
25 that waiver?

1 MS. MUNOZ-KAPHING: We do, Your Honor. May I  
2 tender it to the Court now?

3 THE COURT: Yes, please.

4 (Document handed to the Court)

5 THE COURT: And, Mr. Bjerknes, is this your  
6 signature on this document that was just given to me?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: And that being a waiver of the  
9 prosecution by indictment?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: Okay. I accept that and we will file  
12 that.

13 Mr. Wold, does Mr. Bjerknes waive the right to  
14 have the Information read?

15 MR. WOLD: He does.

16 THE COURT: Okay. Mr. Bjerknes, I understand that  
17 you are here today because you've decided to enter a guilty  
18 plea in this case; is that correct?

19 THE DEFENDANT: That is correct, Your Honor.

20 THE COURT: And before I accept your guilty plea,  
21 I have to ask you several questions and you have to answer  
22 those questions under oath. So at this time Ms. Bender, my  
23 courtroom deputy, will swear you in.

24 COURTROOM DEPUTY: Will you raise your right hand,  
25 please.

1 (Defendant sworn)

2 **EXAMINATION**

3 BY THE COURT:

4 Q. Now, Mr. Bjerknes, do you understand that you are now  
5 under oath?

6 A. Yes, Your Honor.

7 Q. And because you are now under oath, if you say anything  
8 at this hearing that is not true, you could be prosecuted  
9 for a separate crime. That crime is perjury, and the  
10 government could use any false statements that you give  
11 under oath against you in that prosecution. So it is very  
12 important for you to be truthful in everything that you say  
13 today. Do you understand that?

14 A. Yes, Your Honor.

15 Q. The most important thing for you to understand is that  
16 if you plead guilty and if I accept your guilty plea, you  
17 will not be able to change your mind or take back your  
18 guilty plea.

19 So if there is anything that happens that confuses  
20 you or that worries you, you should get the help from  
21 Mr. Wold that you need before you plead guilty, because  
22 after you plead guilty it may be too late for you to get the  
23 help that you need. Do you understand that, Mr. Bjerknes?

24 A. Yes, Your Honor.

25 Q. If you wish to talk to Mr. Wold at any time today,

1       you're welcome to do so. If I ask you a question and you're  
2       not certain whether to answer it or how to answer it, just  
3       let me know that you want to speak with your attorney and I  
4       will give you the chance to speak with Mr. Wold privately  
5       either here in the courtroom or outside of the courtroom. I  
6       don't mind waiting. Do you understand?

7       A. Yes, Your Honor.

8       Q. Mr. Bjerknes, I will begin by asking a few questions to  
9       make certain that you are competent to enter a guilty plea.

10               So please state your full name.

11       A. Brandon Mark Bjerknes.

12       Q. Have you ever used any other name, Mr. Bjerknes?

13       A. No, Your Honor.

14       Q. How old are you, sir?

15       A. 35.

16       Q. And how far did you go in school?

17       A. Through college, a master's degree and a specialist  
18       degree.

19       Q. And where did you go to college and graduate school?

20       A. I went to Bemidji State University and Moorhead State  
21       University.

22       Q. And do you have any trouble speaking or understanding  
23       the English language?

24       A. No, Your Honor.

25       Q. And based on what you have told me about your

1 educational attainment, I assume that you read well, you are  
2 able to read. Is that a correct assumption?

3 A. Yes, Your Honor.

4 Q. Okay. And right now are you under the influence of any  
5 alcohol?

6 A. No, Your Honor.

7 Q. Have you had any alcohol in the last 24 hours?

8 A. No, Your Honor.

9 MR. WOLD: If I could have a minute, Your Honor?

10 THE COURT: Yes, you may.

11 (Defendant and defense counsel confer)

12 THE DEFENDANT: Back to one of your questions  
13 about using a different name, I did use the name Brett  
14 Larson.

15 BY THE COURT:

16 Q. Brett Larson?

17 A. Correct.

18 Q. And how do you spell that?

19 A. B-r-e-t-t, L-a-r-s-o-n.

20 Q. Okay. Thank you. I have a few questions about drug use  
21 now and when I say, "drug," I mean any drug. So that would  
22 be prescription medication, over-the-counter medication that  
23 you might take, as well as any other type of drug use.

24 Are you under the influence of any drug or  
25 medication at this time?



1 A. I take a medication for blood pressure.

2 Q. And did you take it today?

3 A. Last night.

4 Q. And what type of medication is that?

5 A. Lisinopril.

6 Q. Okay. And will that affect your ability to understand  
7 what you are doing here today?

8 A. No, Your Honor.

9 Q. Are you generally in good health?

10 A. Yes, Your Honor.

11 Q. And are you able to think clearly today?

12 A. Yes, Your Honor.

13 Q. Now, you are represented here by Mr. Wold. Have you  
14 fully discussed the charges against you with Mr. Wold?

15 A. Yes, Your Honor.

16 Q. And have you told Mr. Wold everything you want him to  
17 know about this case?

18 A. Yes, Your Honor.

19 Q. Are you fully satisfied with Mr. Wold's services that  
20 you've received?

21 A. Yes, Your Honor.

22 THE COURT: Mr. Wold, have you had sufficient time  
23 to investigate the law and the facts of Mr. Bjerknes's case  
24 and to discuss it with Mr. Bjerknes?

25 MR. WOLD: I have.

1 THE COURT: And based on those discussions, are  
2 you satisfied that Mr. Bjerknes understands the charges  
3 against him and the range of punishments that he faces?

4 MR. WOLD: He does.

5 THE COURT: Based on those dealings with  
6 Mr. Bjerknes, are you satisfied that he's competent to make  
7 a decision about whether to plead guilty today, Mr. Wold?

8 MR. WOLD: I am satisfied, Your Honor.

9 BY THE COURT:

10 Q. So, Mr. Bjerknes, you have told me that you wish to  
11 enter a guilty plea today. If you enter a guilty plea, you  
12 will be giving up a number of important rights. The law  
13 requires me to review these rights with you before you make  
14 a final decision about whether to plead guilty.

15 First, you have the right to plead not guilty to  
16 the charges against you. Do you understand that?

17 A. Yes, Your Honor.

18 Q. You have the right to be tried by a jury that is made up  
19 of 12 citizens of this district. Do you understand?

20 A. Yes, Your Honor.

21 Q. You also have the right to a speedy trial and that means  
22 that if you wanted to take your case to trial, you would get  
23 a trial in the next few months. You would not have to wait  
24 any longer than that. Do you have any questions about that?

25 A. No, Your Honor.

1 Q. You have the right to be represented by an attorney at  
2 every stage of the proceedings. That would be before trial,  
3 during trial, and after trial if you chose to go to trial.  
4 Do you understand that?

5 A. Yes, Your Honor.

6 Q. It is your right to be represented by an attorney who  
7 you hire, but if you cannot afford to hire an attorney, you  
8 have the right to be represented by an attorney who is  
9 appointed to represent you at no cost to you. Do you  
10 understand?

11 A. Yes, Your Honor.

12 Q. And at trial, if you went to trial, you would be  
13 presumed to be innocent and I would instruct the jurors that  
14 they must presume that you are innocent. Do you understand  
15 that?

16 A. Yes, Your Honor.

17 Q. And the burden would be on the government to prove your  
18 guilt, not on you to prove your innocence if you went to  
19 trial. You understand?

20 A. Yes, Your Honor.

21 Q. You would have the right to -- you would not have to  
22 prove anything if you went to trial. Do you understand?

23 A. Yes, Your Honor.

24 Q. Not only would the burden be on the government to prove  
25 your guilt, but the government would have to prove your

1       guilt beyond a reasonable doubt. Understood?

2       A. Yes, Your Honor.

3       Q. I would instruct the jurors, if you went to trial, that  
4       unless they were convinced of your guilt beyond a reasonable  
5       doubt, they would have to find you not guilty. Understood?

6       A. Yes, Your Honor.

7       Q. And if you did go to trial, the government would seek to  
8       prove your guilt by calling witnesses, who would come here  
9       into this courtroom and testify against you. You would have  
10      the right to confront those witnesses. That means that you  
11      would have the right to be physically present in the  
12      courtroom whenever anyone testified at your trial so that  
13      you could see and hear that testimony for yourself. It also  
14      means that Mr. Wold would have the right to ask questions of  
15      anyone who testified at your trial to try to show the  
16      weaknesses in their testimony. Do you understand?

17      A. Yes, Your Honor.

18      Q. You also would have the right to remain silent at your  
19      trial. So no one could force you to testify. That would be  
20      entirely your decision to make, whether or not to testify at  
21      your trial, if you went to trial. Do you understand?

22      A. Yes, Your Honor.

23      Q. And if you decided not to testify, your silence could  
24      not be used against you and, in fact, if you wanted me to, I  
25      would instruct the jurors that when they were deciding

1 whether you had been proven guilty beyond a reasonable  
2 doubt, they could not consider the fact that you chose not  
3 to testify if that was your choice. Do you understand?

4 A. Yes, Your Honor.

5 Q. Now, although you would not have to testify at your  
6 trial or call any witnesses or present any evidence, you  
7 would have the right to do all of those things if you  
8 wished. Do you understand?

9 A. Yes, Your Honor.

10 Q. You'd have the right to take the stand and testify  
11 before the jury on your own behalf and to tell the jurors  
12 your side of the story. Understood?

13 A. Yes, Your Honor.

14 Q. You'd also have the right to call others to testify on  
15 your behalf and, in fact, you could subpoena witnesses. In  
16 other words, you could get a court order from me that would  
17 force people or require people to testify at your trial,  
18 whether they wanted to or not. Do you understand?

19 A. Yes, Your Honor.

20 Q. If you did testify or call witnesses or present any  
21 evidence at your trial, that would not change the burden of  
22 proof. The government would still have the burden of  
23 proving your guilt beyond a reasonable doubt. Understood?

24 A. Yes, Your Honor.

25 Q. And if you went to trial, you could not be convicted of

1 any charge unless every single member of the jury found that  
2 you had been proven guilty of that charge beyond a  
3 reasonable doubt. In other words, any guilty verdict would  
4 have to be unanimous, all 12 jurors would have to agree.  
5 Understood?

6 A. Yes, Your Honor.

7 Q. Now, finally, if you plead guilty and I accept your  
8 guilty plea, you will stand convicted of the charge that you  
9 plead guilty to and you will give up your right to -- or you  
10 will give up the trial. You won't have one on that charge.

11 You will give up other rights that I have just  
12 described and you will give up your right to file any  
13 motions before trial, such as motions asking me to rule that  
14 certain evidence can't be used against you.

15 Do you understand that if you plead guilty and I  
16 accept your guilty plea, you'll be giving up all of those  
17 rights?

18 A. Yes, Your Honor.

19 Q. So let's review the nature of the charges that you will  
20 plead guilty to. Mr. Bjerknes, I understand that you are  
21 here to plead guilty to Counts 1 and 2 of the Information.

22 Count 1 of the Information charges you with  
23 coercion and enticement of a minor to engage in sexual  
24 activity and that's a violation of Title 18, United States  
25 Code, Section 2422(b) and 2427.

1           For you to be convicted of this charge, the  
2           government would have to prove beyond a reasonable doubt  
3           three elements: First, that you knowingly used a facility  
4           and means of interstate and foreign commerce, namely, the  
5           Internet, to persuade, induce, entice, or coerce an  
6           individual under the age of 18 years to engage in sexual  
7           activity and that sexual activity is the production of child  
8           pornography; second, that you believed that such individual  
9           was less than 18 years of age; and three, that based upon  
10          the sexual activity that occurred, you could have been  
11          charged with a criminal offense under the laws of the United  
12          States, namely, the production of child pornography, the  
13          elements of which I just described -- or I will describe to  
14          you in a moment.

15                 Do you understand that?

16          A. Yes, Your Honor.

17          Q. Count 2 of the Information charges you with production  
18          of child pornography, in violation of Title 18, United  
19          States Code, Sections 2251(a) and 2251(e).

20                 Now, for you to be convicted of this charge, the  
21          government would have to prove beyond a reasonable doubt  
22          four elements: First, at the time alleged the individual  
23          described as Minor Number 2 in the Information was under the  
24          age of 18 years; second, you knowingly employed, used,  
25          persuaded, induced, or enticed the individual who is

1 described as Minor Number 2 in the Information to engage in  
2 sexually explicit conduct; three, that you acted with the  
3 purpose of producing a visual depiction of such conduct; and  
4 four, you knew or had reason to know that such visual  
5 depiction would be transported across state lines or into  
6 foreign commerce or such visual depiction was actually  
7 transported or transmitted using any means or facility of  
8 interstate or foreign commerce.

9 Do you understand that these are the charges  
10 against you?

11 A. Yes, Your Honor.

12 Q. I'll now review with you the penalties that you'll be  
13 facing if you plead guilty to Counts 1 and 2 of the  
14 Information.

15 The first is imprisonment. As to Count 1, there's  
16 a mandatory minimum of 10 years and a maximum of life. As  
17 to Count 2, there's a mandatory minimum of 15 years and a  
18 maximum of 30 years.

19 The second form of penalty is supervised release.  
20 As to Count 1, a mandatory minimum of five years and a  
21 maximum of life. As to Count 2, a mandatory minimum of five  
22 years and a maximum of life.

23 There's a fine as to each count of up to \$250,000  
24 and a mandatory special assessment of \$100 per count that's  
25 due at the time of your sentencing.



1           Now, under the Mandatory Victim Restitution Act,  
2           I'm required to order that you pay restitution to the  
3           victims of your crime. I could order you to forfeit the  
4           property that is described in the forfeiture section of the  
5           Information and in paragraph 10 of the plea agreement. And,  
6           finally, I could order you to pay the costs of prosecuting  
7           you.

8           Now, do you understand that these are the  
9           penalties that might be imposed on you if you plead guilty  
10          to Counts 1 and 2 of the Information?

11         A. Yes, Your Honor.

12         Q. Now, I mentioned supervised release as a penalty and  
13         I'll explain that now.

14                 Supervised release is what happens after a  
15                 convicted person is released from prison. Let's say that  
16                 you go to prison, you serve your time, you get out of  
17                 prison, then you're placed on supervised release. I will  
18                 decide how long you'll serve on supervised release and I  
19                 will also decide what conditions you must follow while you  
20                 are on supervised release.

21                 Now, if you violate any conditions of your  
22                 supervised release, you could be sent back to prison and  
23                 kept in prison for up to the length of your term of  
24                 supervised release without getting any credit for the time  
25                 that you have already served on supervised release. Do you

1 understand that?

2 A. Yes, Your Honor.

3 Q. And I also need to warn you that there is no parole in  
4 the federal prison system. So if you are sentenced to  
5 prison, you will have to serve your full sentence. You will  
6 not be released early on parole. Do you understand that?

7 A. Yes, Your Honor.

8 Q. And, also, because you are a United States citizen and  
9 you have been charged with a felony, if you plead guilty you  
10 may lose your rights to vote, to hold public office, to  
11 serve on a jury, and to possess certain types of weapons,  
12 including a firearm and ammunition. Do you understand that?

13 A. Yes, I do, Your Honor.

14 Q. Also, because you've been charged with a sex offense, if  
15 you plead guilty you will be required to register as a sex  
16 offender and keep your registration current in this state  
17 and in any other state in which you live, work, or are a  
18 student. If you knowingly fail to register or to upgrade  
19 your registration as a sex offender, that is a federal  
20 crime. Do you understand that?

21 A. Yes, Your Honor.

22 Q. Now, I understand, Mr. Bjerknes, you have entered into a  
23 plea agreement with the United States; is that correct?

24 A. That is correct, Your Honor.

25 Q. Have you read the plea agreement?

1 A. Yes, Your Honor.

2 Q. Has Mr. Wold carefully gone through the plea agreement  
3 with you and explained all of its terms?

4 A. Yes, Your Honor.

5 Q. Has Mr. Wold answered all of your questions about the  
6 plea agreement?

7 A. Yes, Your Honor.

8 Q. Do you believe that you understand the terms of the plea  
9 agreement?

10 A. I do, Your Honor.

11 Q. Now, before you can plead guilty, I have to determine  
12 whether there is a factual basis for your guilty plea. That  
13 means I have to make sure that you actually committed the  
14 crime that you are pleading guilty to.

15 So to avoid any misunderstandings, I'll ask  
16 Ms. Munoz-Kaphing to describe the factual basis, the  
17 guidelines calculations, and any other important provisions  
18 in the plea agreement that I haven't already covered.

19 MS. MUNOZ-KAPHING: Thank you, Your Honor.

20 **EXAMINATION**

21 BY MS. MUNOZ-KAPHING:

22 Q. Mr. Bjerknes, this is the version of the plea agreement  
23 that we've all signed at the outset of the hearing. Do you  
24 see your signature at the back page here?

25 A. I do.

1 Q. And Mr. Wold's signature and my own signature?

2 A. Um-hmm.

3 Q. So I am going to walk through, as Judge Wright has  
4 asked, portions of this plea agreement.

5 MS. MUNOZ-KAPHING: Your Honor, would you like me  
6 to start with the factual basis?

7 THE COURT: Yes, please.

8 BY MS. MUNOZ-KAPHING:

9 Q. So, Mr. Bjerknes, I am going to begin with page 1 here.  
10 And so you have agreed that the following facts -- you agree  
11 to the following facts and you further agree that if this  
12 matter were to go to trial, the United States, meaning me  
13 and the government, would be able to prove the following  
14 facts beyond a reasonable doubt. We're going to start here  
15 with the background and the scheme that's underlying the  
16 charges today.

17 So from at least as early as 2014 and continuing  
18 through on or about March 20th of 2017, in the state and  
19 district of Minnesota, you agree that you engaged in a  
20 scheme using various social media applications, including  
21 Facebook and Snapchat, to do a number of things; is that  
22 correct?

23 A. Yes.

24 Q. And some of those items are you solicited images and  
25 videos constituting child pornography from minor females,

1 you engaged in sexually explicit conversations with minor  
2 females, and distributed sexually explicit images and videos  
3 to minor females and males. Do you agree?

4 A. Yes.

5 THE COURT: Would you keep your voice up or maybe  
6 move the microphone so I can make sure that I hear you.

7 BY MS. MUNOZ-KAPHING:

8 Q. Next part of your scheme. You agree that you posed as a  
9 13- to 15-year-old male by the name of Brett Larson; is that  
10 correct?

11 A. Yes.

12 Q. And that you created Brett Larson -- a Brett Larson  
13 Facebook page and two Snapchat accounts under the names of  
14 brettlaron69 and brettlaron6969; is that correct?

15 A. Yes.

16 Q. And that you used decoy photographs of a known juvenile  
17 boy -- may not be known to you, but it's an actual juvenile  
18 boy who lives in the United States -- in your Brett Larson  
19 social media accounts; is that correct?

20 A. Yes.

21 Q. And that you represented that Brett Larson lived in  
22 Duluth, Minnesota and attended Morgan Park School in Duluth,  
23 Minnesota; is that correct?

24 A. Yes.

25 Q. Moving to paragraph (b), Mr. Bjerknes, you used the

1 Brett Larson social media accounts to contact minor females  
2 and males in middle school and high school; is that correct?

3 A. Yes.

4 Q. And the majority of the minor females and males that you  
5 contacted resided in the state and district of Minnesota,  
6 including in Bemidji, Minnesota; is that correct?

7 A. Yes.

8 Q. And you also contacted minors outside of the state and  
9 district of Minnesota; is that correct?

10 A. Yes.

11 Q. And in total you agree that, based on the evidence that  
12 the government has provided, that you were in contact with  
13 at least 55 minor females and males that are known and  
14 actual minors and are not law enforcement agents acting in  
15 an undercover capacity. Do you agree?

16 A. Yes.

17 Q. And we've agreed from here on out to refer to these  
18 minor victims, the minor females and males, as Minor  
19 Number 1 through Minor Number 55. Do you agree?

20 A. Yes.

21 Q. Moving to paragraph (c), as part of this scheme you used  
22 the Brett Larson decoy social media accounts to engage in  
23 written sexually explicit conversations with minor females.  
24 Do you agree?

25 A. Yes.

1 Q. And your written chats graphically described sexual acts  
2 that you wanted to perform with the minor females and  
3 described how you were sexually aroused by the minor  
4 females; is that correct?

5 A. Yes.

6 Q. Moving to paragraph (d), as part of this scheme you used  
7 the Brett Larson decoy social media accounts to direct minor  
8 females to send you naked photographs of specific body  
9 parts -- of the minor females' specific body parts. Do you  
10 agree?

11 A. Yes.

12 Q. And these photographs included pictures of the minor  
13 females' genitalia and photographs or videos of the minor  
14 females engaging in specific sexual acts or poses. Do you  
15 agree?

16 A. Yes.

17 Q. You then directed the minor females to send the  
18 photographs or videos of themselves to you via Facebook or  
19 Snapchat and they did that; is that correct?

20 A. Yes.

21 Q. And in total you obtained multiple photographs and  
22 videos constituting child pornography from six different  
23 minor females; is that correct?

24 A. Yes.

25 Q. And we've agreed that these minor females will be

1 referenced as Minors Number 1, 2, 3, 4, 5, and 6; is that  
2 correct?

3 A. Yes.

4 Q. And you admit and agree that these images and videos  
5 constitute child pornography as defined in 18, United States  
6 Code, Section 2256, paragraph (8); is that correct?

7 A. Yes.

8 Q. Mr. Bjerknes, starting now with paragraph (e), with  
9 respect to Minors Number 1, 2, and 3, you used one of your  
10 iPhones to create videos of yourself using a second iPhone  
11 to view the sexually explicit photographs and videos that  
12 were sent to you; is that correct?

13 A. Yes.

14 Q. And these were sent to you by the minor females via the  
15 Snapchat application; is that correct?

16 A. Yes.

17 Q. And you used your second iPhone to create a permanent  
18 record of and to preserve the sexually explicit photographs  
19 and videos that you received from Minors Number 1, 2, and 3;  
20 is that correct?

21 A. Yes.

22 Q. And you agree and admit that the iPhones that you were  
23 using to do this were manufactured outside of the state of  
24 Minnesota and therefore would have traveled in interstate  
25 and foreign commerce, correct?



1 A. Yes.

2 Q. Paragraph (f). As part of your scheme you also sent  
3 sexually explicit photographs and videos to minor females  
4 and males, correct?

5 A. Yes.

6 Q. And you specifically sent photographs of your own  
7 genitalia and photographs and videos containing adult  
8 pornography. Do you agree?

9 A. Yes.

10 Q. And on more than one occasion you distributed the  
11 sexually explicit photographs that you directed Minor  
12 Number 4 to take of herself and you sent that to Minor  
13 Number 7, a minor male, via Facebook. Do you agree?

14 A. Yes.

15 Q. Moving to paragraph (g), at all times relevant to this  
16 scheme and to Counts Number 1 and 2 in the Information you  
17 were employed as the assistant principal of Bemidji Middle  
18 School in Bemidji, Minnesota; is that correct?

19 A. Yes.

20 Q. And due to your role as assistant principal, you  
21 personally knew many of the minor victims that you contacted  
22 via the Brett Larson social media accounts; is that correct?

23 A. Yes.

24 Q. And, for example, with respect to Minor Number 1, you  
25 participated in meetings with regard to Minor Number 1 while

1       you were an assistant principal at Bemidji Middle School; is  
2       that correct?

3       A.   Yes.

4       Q.   Let's talk specifically, Mr. Bjerknes, about Count  
5       Number 1, which is in paragraph (h) of our plea agreement.

6                You began communicating over the Internet, which  
7       you have agreed is a facility of interstate and foreign  
8       commerce, with Minor Number 1 in September of 2016. Do you  
9       agree?

10      A.   Yes.

11      Q.   And you contacted Minor Number 1 on Facebook via your  
12      Brett Larson profile, correct?

13      A.   Yes.

14      Q.   And you agree that Minor Number 1 was born in March of  
15      2003 and that you knew that she was 13 years old at the time  
16      you began communicating with her, correct?

17      A.   Yes.

18      Q.   And Minor Number 1 told you how old she was during your  
19      social media conversations, correct?

20      A.   Yes.

21      Q.   And you also knew about her age, that she was under the  
22      age of 18, because of the information you learned about her  
23      in your role as assistant principal; is that correct?

24      A.   Yes.

25      Q.   In written Facebook conversations, you as the Brett

1 Larson profile and Minor Number 1 played a game of truth or  
2 dare; is that correct?

3 A. Yes.

4 Q. And you dared Minor Number 1 to send photographs which  
5 were sexual in nature, correct?

6 A. Yes.

7 Q. And you asked for pictures of her various body parts,  
8 correct?

9 A. Yes.

10 Q. And at your prompting Minor Number 1 actually sent you  
11 photographs to the Brett Larson social media account; is  
12 that correct?

13 A. Yes.

14 Q. And those were sent via the Facebook Instant Messenger  
15 application?

16 A. Yes.

17 Q. You also dared, using the Brett Larson social media  
18 profile, Minor 1 to watch a, quote, unquote, porno clip; is  
19 that correct?

20 A. Yes.

21 Q. And you sent that to her via the Snapchat application,  
22 correct?

23 A. Yes.

24 Q. On or about September 5th of 2016 you agree that using  
25 the Internet you knowingly persuaded, induced, and enticed

1 Minor Number 1 to engage in sexual activity for which a  
2 person can be charged with a criminal offense, namely, the  
3 production of child pornography; is that correct?

4 A. Yes.

5 Q. And that is you agree that using the Internet you caused  
6 Minor Number 1 to engage in sexually explicit conduct for  
7 the purpose of producing a visual depiction of such conduct  
8 or for the purpose of transmitting a live visual depiction  
9 of such conduct; is that correct?

10 A. Yes.

11 Q. And Minor Number 1 sent you the video of herself  
12 engaging in sexually explicit conduct via the Snapchat  
13 social media application; is that correct?

14 A. Yes.

15 Q. And you further acknowledge that you used one of your  
16 iPhones to record yourself using your second iPhone to view  
17 and play the video that Minor Number 1 sent to you via  
18 Snapchat; is that correct?

19 A. Yes.

20 Q. And the video that bears out the sexually explicit  
21 conduct is identified by this file name -- it's an  
22 alphanumeric number -- on page 4 of the plea agreement. Do  
23 you agree with that?

24 A. Yes.

25 Q. Moving to Count 2, Mr. Bjerknes, and paragraph (i), you

1 admit and agree that on or about March 12, 2017, in the  
2 state and district of Minnesota, you used, persuaded, and  
3 enticed a known minor, who we have referred to as Minor  
4 Number 2, to engage in sexually explicit conduct for the  
5 purpose of producing a visual depiction of that conduct; is  
6 that correct?

7 A. Yes.

8 Q. And you knew when you were doing that that it would be  
9 transmitted to you using a means and facility of and in and  
10 affecting interstate and foreign commerce; is that correct?

11 A. Yes.

12 Q. Including by cellular telephone and via the Internet; is  
13 that correct?

14 A. Yes.

15 Q. And specifically you admit and agree that you used,  
16 employed, persuaded, induced, and enticed Minor Number 2 to  
17 produce the following visual depiction of herself engaging  
18 in sexually explicit conduct; is that correct?

19 A. Yes.

20 Q. And that image -- or the video is labeled IMG\_6330.MOV,  
21 correct?

22 A. Yes.

23 Q. And you admit and agree that this visual depiction  
24 constitutes child pornography as defined in 18, United  
25 States Code, Section 2256, paragraph (8), correct?

1 A. Yes.

2 Q. And likewise you admit and agree that you used,  
3 persuaded, and enticed Minor Number 2 to transmit the visual  
4 depictions of child pornography to you using a cellular  
5 telephone over the Internet; is that correct?

6 A. Yes.

7 Q. And you further acknowledge that you used one of your  
8 iPhones to record yourself using your second iPhone to view  
9 the image that Minor Number 2 sent to you via Snapchat; is  
10 that correct?

11 A. Yes.

12 Q. And, finally, you agree that the cellular telephones  
13 that you used to communicate with the minor victims, namely,  
14 your iPhones, as well as to create the child pornography  
15 were manufactured outside the state and district of  
16 Minnesota; is that correct?

17 A. Yes.

18 Q. And, finally, the last paragraph in the factual basis is  
19 on page 5. It's with respect to additional offenses in  
20 paragraph (k). And you stipulate that pursuant to United  
21 States Sentencing Guidelines Section 1B1.2(c) that your  
22 conduct with respect to Minors Number 3, 4, 5, and 6 shall  
23 be treated as if you were convicted of four additional  
24 counts of production of child pornography, in violation of  
25 18, United States Code, Sections 2251(a) and (e); is that

1 correct?

2 A. Yes.

3 Q. We've already talked about --

4 MS. MUNOZ-KAPHING: That is the end of the factual  
5 basis, Your Honor.

6 BY MS. MUNOZ-KAPHING:

7 Q. We've discussed already with Judge Wright the statutory  
8 penalties and the waiver of indictment, so I am going to  
9 skip over those discussions that we have had in that part of  
10 the plea agreement.

11 You've also agreed by entering into this plea  
12 agreement to waive any pretrial motions. So you have the  
13 right to file pretrial motions, and Judge Wright addressed  
14 this in the waiver of your rights, and you are agreeing by  
15 entering into this plea agreement to waive your rights to  
16 file any pretrial motions.

17 I am going to skip over paragraph 6, this is the  
18 supervised release that Judge Wright has already addressed,  
19 and move to paragraph 7, which is the guideline  
20 calculations.

21 Your attorney and I have discussed the guideline  
22 calculations and he's reviewed these with you, so I am going  
23 to just discuss sort of the high-level points of them  
24 because I know you have talked with him about this already.

25 But underneath the sentencing guidelines we need

1 to calculate what the adjusted offense level is for Counts 1  
2 and 2 and so we have agreed and stipulated to that  
3 calculation.

4 So we have agreed with respect to Count Number 1  
5 that the base offense level for coercion and enticement is  
6 the number 32. Do you agree with that?

7 A. Yes.

8 Q. And that a specific offense characteristic is that we  
9 add two levels because the offense involved a minor who had  
10 not yet attained the age of 12 years -- who had attained,  
11 excuse me, the age of 12 years, but had not attained the age  
12 of 16 years.

13 We've also agreed that two levels are added  
14 because the offense involved the commission of a sexual act  
15 or sexual touching.

16 We've agreed that an additional two levels are  
17 added because the offense involved the knowing  
18 misrepresentation of a participant's identity to persuade,  
19 induce, entice, and coerce a minor to engage in sexually  
20 explicit conduct.

21 We also agree that for Count 1 that two levels are  
22 added because you abused a position of trust with respect to  
23 Minor Number 1.

24 So the total adjusted offense level for Count 1 is  
25 40.



1           We've also agreed with respect to Count Number 2  
2           that the base offense level for production of child  
3           pornography is 32. We've also agreed to a number of  
4           enhancements in the specific offense characteristics.

5           Two levels are added because the offense involved  
6           a minor who had attained the age of 12 years, but had not  
7           attained the age of 16 years.

8           We agree that two levels are added because the  
9           offense involved the commission of a sexual act or sexual  
10          touching.

11          We agree that two levels are added because the  
12          offense involved the knowing misrepresentation of a  
13          participant's identity to persuade, induce, entice, and  
14          coerce a minor to engage in sexually explicitly conduct.

15          And so the total adjusted offense level for Count  
16          Number 2 is 38.

17          Do you agree with what I have just outlined?

18          A. Yes.

19          Q. Then we need to calculate a combined offense level and  
20          we have agreed that because of your actions with regard to  
21          Minor Number 1, Minor 2, and then Minors 3 through 6,  
22          they're treated as distinct groups under the sentencing  
23          guidelines. And this is something you've talked to your  
24          attorney about; is that correct?

25          A. Yes.

1 Q. And so the total adjusted offense level for each of the  
2 four additional offenses is 36. The greater of the adjusted  
3 offense levels is 40 with respect to Count 1 and then  
4 there's an additional five-level enhancement because of the  
5 extra counts that you have pled guilty to or stipulated to.

6 So, therefore, after all the calculations with the  
7 combined offense level, we agree that your offense level is  
8 45; is that correct?

9 A. Yes.

10 Q. There are also additional enhancements for being a  
11 repeat and dangerous sex offender. We have agreed that  
12 because the instant offenses of conviction are a covered sex  
13 crime and because you engaged in a pattern of activity  
14 involving prohibited sexual conduct, that an additional five  
15 levels are added, which result in an adjusted offense level  
16 of 50; is that correct?

17 A. Yes.

18 Q. Now, paragraph (c) talks about the reduction that you  
19 get in your offense level because you have come today and  
20 agreed to plead guilty and you have done this in a timely  
21 fashion. So because of that, you have a three-level  
22 reduction, which would drop us down to 47. However, because  
23 the sentencing guidelines only treat offense level 43 as the  
24 highest, you actually drop down to 43. Do you understand  
25 that?

1 A. Yes.

2 Q. The parties have agreed, based on a review of your  
3 criminal history, that you are in Category Number I. So  
4 this is just our belief based on the information that we  
5 have available at the time. Judge Wright will calculate  
6 what your criminal history offense is and if she calculates  
7 it as something different and finds it as something  
8 different, that's not a reason to back out from the plea  
9 agreement. So that's what -- this is what we've agreed that  
10 it is.

11 So the advisory guideline range for an adjusted  
12 offense level of 43 and a Criminal History Category of I  
13 results in an advisory guideline range of life in prison.  
14 Do you understand that?

15 A. Yes.

16 Q. And you understand that the fine range for this offense  
17 level is from \$25,000 to \$250,000. Do you understand that?

18 A. Yes.

19 Q. And similar to what Judge Wright has discussed with you  
20 about the supervised release, there's a minimum for five  
21 years and a maximum of life of supervised release.

22 A. Yes.

23 Q. Excuse -- yes, I did state that correctly.

24 Finally, with respect to sentencing  
25 recommendations and departures, your attorney, Mr. Wold, and

1 I have agreed that we will reserve all rights to make any  
2 motions for departures, whether downward or upward, in what  
3 your sentencing is and that will be something that's in the  
4 sole discretion of Judge Wright.

5 You do understand, though, that by pleading guilty  
6 today, that there is a mandatory minimum sentence in this  
7 case of 15 years in prison. Do you agree?

8 A. Yes.

9 Q. Another important part of this plea agreement is with  
10 respect to the state court sentence. Now, the United States  
11 has agreed that any sentence that you receive in state court  
12 for the related state court charges for the charges of  
13 electronic communication relating to or describing sexual  
14 conduct with a child or solicitation of a child that are  
15 filed out of Beltrami County, Minnesota, that any time that  
16 you receive federally and any time that you receive from the  
17 state, that the United States will agree that those can run  
18 concurrently, meaning at the same time. That's something  
19 that we've agreed to. Again, the judge is -- it's in her  
20 discretion in terms of what happens at sentencing, but the  
21 United States will agree to not oppose any request that you  
22 make for concurrent time.

23 We've also discussed briefly the discretion of the  
24 Court. These stipulations are binding on you, on Mr. Wold,  
25 and on myself. They're not binding on Judge Wright. She's

1 not a party to this plea agreement and so if she determines  
2 that the guideline range is different, then that's not a  
3 reason to back out of the plea agreement.

4 Finally, with respect to forfeiture, we've agreed  
5 that forfeiture applies and you have agreed to forfeit a  
6 white Apple iPhone identified at the bottom of page 10, a  
7 black Apple iPhone identified at the top of page 11, and one  
8 27-inch Apple iMac. Do you agree with that?

9 A. Yes.

10 Q. You also agree that with respect to restitution, that  
11 mandatory restitution applies, as Judge Wright has  
12 explained, but that the parties have made no agreement with  
13 respect to restitution for the victims of your crimes; is  
14 that correct?

15 A. Yes.

16 THE COURT: May I stop you? One of the electronic  
17 devices is identified as a 27-inch Apple iMac in the plea  
18 agreement. Is that an Apple iPad, you said?

19 MS. MUNOZ-KAPHING: Thank you, Your Honor. It's  
20 not an iPad. It is an iMac, a computer, rather than a  
21 tablet. Thank you.

22 THE COURT: Thank you.

23 BY MS. MUNOZ-KAPHING:

24 Q. We'll skip over paragraph 12 with the special  
25 assessment. Judge Wright has already talked about that

1 earlier today.

2 And, finally, Mr. Bjerknes, on paragraph 13, this  
3 agreement that we've just discussed today along with any  
4 other agreements signed by the parties before the entry of  
5 the plea, that's the entire agreement. There's no other  
6 agreements, promises, or representations or understandings.  
7 Do you agree?

8 A. Yes.

9 MS. MUNOZ-KAPHING: Your Honor, that's all I have,  
10 but I can go over anything else if you would like.

11 **EXAMINATION**

12 BY THE COURT:

13 Q. I want to emphasize and ensure that you understand,  
14 Mr. Bjerknes, that pursuant to paragraph 2(k) of the plea  
15 agreement that's on page 5 of the plea agreement, you have  
16 stipulated that under federal sentencing guidelines your  
17 conduct with respect to Minor 3, Minor 4, Minor 5, and  
18 Minor 6 should be treated as if you were convicted of four  
19 additional counts of production of child pornography and if  
20 at the time of sentencing the Court agrees with this  
21 application of the federal sentencing guidelines, this  
22 conclusion could result in a recommended guideline  
23 sentencing range of life in prison. Do you understand that?

24 A. Yes. Yes, Your Honor.

25 Q. And you have had enough time to consult with Mr. Wold

1 about that particular fact, but also the rest of the plea  
2 agreement and the jeopardy or possible punishments and  
3 deprivation of rights that will result from you entering a  
4 guilty plea; is that correct?

5 A. Yes, Your Honor.

6 THE COURT: Mr. Wold, are there any other  
7 provisions that need to be reviewed or anything else that  
8 you would like to add or clarify regarding the factual  
9 basis?

10 MR. WOLD: No, Your Honor.

11 BY THE COURT:

12 Q. And, Mr. Bjerknes, are those the terms of the plea  
13 agreement as you understand them, those that  
14 Ms. Munoz-Kaphing has addressed as well as the plea  
15 agreement that's before you and then the clarifications that  
16 we've made subsequent to you indicating that you understood  
17 the terms of the plea agreement?

18 A. Yes, Your Honor.

19 Q. And other than what is contained in the plea agreement  
20 and what I've just told you, has the government or anyone  
21 else made any promises in order to get you to plead guilty  
22 today?

23 A. No, Your Honor.

24 Q. I want to be sure that you understand the impact of the  
25 plea agreement on me.

1 First I want you to understand that although the  
2 government and Mr. Wold can make a recommendation about your  
3 sentence, I do not have to accept their recommendation and I  
4 don't have to sentence you according to the plea agreement.  
5 Do you understand that?

6 A. Yes, Your Honor.

7 Q. And as I sit here today, I do not know what sentence I  
8 will impose and I won't even begin to determine what  
9 sentence is the appropriate sentence until a presentence  
10 investigation is completed and until I receive a presentence  
11 report about you. Do you understand?

12 A. Yes, Your Honor.

13 Q. And because I don't have any idea what sentence I will  
14 impose, neither the lawyers nor anyone else can know what  
15 sentence I will impose. Do you understand?

16 A. Yes, Your Honor.

17 Q. It's possible that I'll give you a sentence that's  
18 longer than you're expecting or hoping for and if I give you  
19 a sentence like that, you will not be able to take back or  
20 withdraw your guilty plea. Do you understand that?

21 A. Yes, Your Honor.

22 Q. You may be able to appeal the sentence, but no matter  
23 what sentence I give you, your guilty plea will stand. Do  
24 you understand?

25 A. Yes, Your Honor.



1 Q. And your plea agreement discusses the federal sentencing  
2 guidelines and I want to explain how I will use those  
3 guidelines.

4 I'll first look at the federal sentencing  
5 guidelines and decide what the sentencing guidelines  
6 recommend in your case. What your plea agreement, as I said  
7 before, what it says is not binding on me. I will make my  
8 own decision as to that.

9 I will then look further at the guidelines because  
10 sometimes the guidelines themselves recommend a sentence  
11 above or below the range, what we call a departure.

12 And finally I will decide whether to follow the  
13 recommendations of the sentencing guidelines. It's just a  
14 recommendation for me. It's not binding on me and, in fact,  
15 I'm required to consider many things in addition to the  
16 recommendations of the guidelines when I decide your  
17 sentence. Do you understand that?

18 A. Yes, I do, Your Honor.

19 Q. So you cannot count on getting a guideline sentence.  
20 You may get a sentence that's higher than the guidelines  
21 recommend. You may get a sentence that's lower than the  
22 guidelines recommend. Do you understand that?

23 A. I do, Your Honor.

24 Q. Now, your plea agreement provides that you accept  
25 personal responsibility for your criminal conduct, which may

1 entitle you to a reduction in your guidelines offense level  
2 so long as you continue to accept responsibility by  
3 cooperating in this process and by providing all requested  
4 information as it relates to the charged criminal conduct.  
5 So the government has indicated that it will move for a  
6 three-level reduction so long as you continue to accept  
7 responsibility and cooperate with this process.

8 Do you, Mr. Bjerknes, understand that it's  
9 entirely up to the government to decide whether to make a  
10 motion for a reduction based on your acceptance of  
11 responsibility for your criminal conduct?

12 A. Yes, Your Honor.

13 Q. And do you understand that even if you believe that you  
14 have satisfied the requirements for that reduction, the  
15 government might disagree and choose not to move for the  
16 reduction?

17 A. Yes, Your Honor.

18 Q. Okay. You also understand that even if the government  
19 does move for that reduction, I may deny the motion and  
20 decide not to reduce your sentence.

21 And, again, do you understand that no matter what  
22 happens, you will not be able to withdraw your guilty plea;  
23 do you understand?

24 A. Yes, I do, Your Honor.

25 Q. After I impose the sentence, the government will have

1 the right to appeal the sentence if the government thinks  
2 that I made a mistake or gave you a sentence that was too  
3 short, not long enough. Do you understand that?

4 A. Yes, Your Honor.

5 Q. And, likewise, you will have the right to appeal the  
6 sentence if you think I made a mistake or gave you a  
7 sentence that was too long, but I want to be clear that it's  
8 only the sentence that you will be able to appeal. You will  
9 not be able to appeal on the assertion that you're innocent  
10 or that certain evidence should be suppressed. Do you  
11 understand that?

12 A. I do, Your Honor.

13 Q. Mr. Bjerknes, are you making this plea voluntarily and  
14 of your own free will?

15 A. I am, Your Honor.

16 Q. And has anyone forced you, threatened you, coerced you,  
17 or done any harm to you or another person to get you to  
18 plead guilty?

19 A. No, they have not, Your Honor.

20 Q. Are you going to plead guilty because you are, in fact,  
21 guilty of the crimes charged?

22 A. Yes, Your Honor.

23 THE COURT: And, Mr. Wold, is there anything else  
24 that you would like me to cover with Mr. Bjerknes before he  
25 enters his guilty plea?

1 MR. WOLD: No, Your Honor.

2 THE COURT: Ms. Munoz-Kaphing, is there anything  
3 that you would like me to cover with Mr. Bjerknes before he  
4 enters his guilty plea?

5 MS. MUNOZ-KAPHING: No, Your Honor. Thank you.

6 BY THE COURT:

7 Q. Mr. Bjerknes, do you have any questions for me or for  
8 Mr. Wold before I ask for your plea? If you do, you may  
9 speak with Mr. Wold outside of my hearing if you have any  
10 questions. Do you have any questions at this time for me or  
11 Mr. Wold?

12 A. No, I do not, Your Honor.

13 Q. You understand all of your constitutional rights that I  
14 have gone over with you?

15 A. Yes, Your Honor.

16 Q. And do you knowingly and intelligently and voluntarily  
17 give up those rights?

18 A. Yes, Your Honor.

19 Q. Mr. Bjerknes, how do you plead to Count 1 of the  
20 Information, which alleges that you committed the crime of  
21 coercion and enticement, in violation of Title 18, United  
22 States Code, Sections 2422(b) and 2427, do you plead guilty  
23 or not guilty?

24 A. Guilty, Your Honor.

25 Q. And, Mr. Bjerknes, how do you plead to Count 2 of the

1 Information, which alleges that you committed the crime of  
2 production of child pornography, in violation of Title 18,  
3 United States Code, Sections 2251(a) and 2251(e), do you  
4 plead guilty or not guilty?

5 A. Guilty, Your Honor.

6 THE COURT: May I have the plea agreement and  
7 please verify that it's been signed.

8 (Document handed to the Court)

9 THE COURT: Mr. Bjerknes, this is your signature  
10 on the plea agreement on page 12?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: Based on the record established in  
13 this case, I find that the defendant, Brandon Mark Bjerknes,  
14 is mentally competent and capable of entering an informed  
15 plea.

16 I find that Mr. Bjerknes understands the nature of  
17 the charges against him and the nature of these proceedings  
18 and the consequences of his guilty plea.

19 I find that Mr. Bjerknes's guilty plea is free,  
20 it's voluntary, it's knowing, and it is informed.

21 And I find that his guilty plea is supported by  
22 independent facts in the record establishing all of the  
23 elements of the offenses listed in Counts 1 and 2 of the  
24 Information.

25 Mr. Bjerknes, I accept your guilty plea and I

1       adjudge you guilty as a matter of law of Count 1 and  
2       Count 2.

3               I want to tell you what will happen next. The  
4       probation officer will conduct an investigation and prepare  
5       a report that will help you -- help me decide on your  
6       sentence. The probation officer will interview you as a  
7       part of that investigation and you'll be required to give  
8       information for that report. Your attorney may be present  
9       when you are interviewed.

10              After the report is prepared, you'll have a chance  
11      to read it and discuss it with Mr. Wold. If there's  
12      anything in the report that you think is incorrect or if  
13      something has been left out of the report that you want me  
14      to know, you'll have a chance to file objections to the  
15      report.

16              Before I decide on your sentence I will read not  
17      only the report, but I will also review any objections that  
18      either you or the United States have made, as well as any  
19      other papers that you or the government have filed.

20              You'll then have a sentencing hearing. At that  
21      sentencing hearing I'll impose your sentence, but before I  
22      do so I will give both you and Mr. Wold, your attorney, a  
23      chance to speak.

24              Do you understand?

25              THE DEFENDANT: Yes, Your Honor.

1 THE COURT: Now, I understand that Mr. Bjerknes  
2 currently is released subject to pretrial supervision, but  
3 mandatory detention pending sentencing applies in this case.  
4 Is that correct?

5 MS. MUNOZ-KAPHING: Yes, Your Honor.

6 THE COURT: Do we need to review the mandatory  
7 detention -- the nature of the mandatory detention and the  
8 federal laws regarding that?

9 MR. WOLD: Your Honor, I have been advised by the  
10 pretrial officer, Mr. Alberts, that has been monitoring  
11 Mr. Bjerknes. He suggests that if there's potentially  
12 circumstances that would allow continued release, I could  
13 raise those. I have discussed that with Mr. Bjerknes.

14 I don't know if the Court is aware, but he was  
15 first arrested in Beltrami County on state court charges  
16 there. He was released on bail with conditions. He abided  
17 by all those conditions.

18 Even when it became apparent that there would be  
19 these federal charges, he was living free at that time, but  
20 continued to abide by those conditions. After he came to  
21 federal court he was released to the halfway house on strict  
22 conditions, including house arrest. He abided by those  
23 conditions perfectly.

24 He was allowed to travel freely to my office that  
25 he did on several occasions, facing the consequences that

1 he's known about for many weeks now. In fact, he was at my  
2 office yesterday traveling freely. He's returned. He has  
3 not attempted to run. He has not attempted to cause harm to  
4 himself.

5 I've raised this issue with Mr. Bjerknes and told  
6 him that I could make this argument to Your Honor. He has  
7 asked me not to and joins in the government's motion to  
8 detain him. He takes responsibility for his shameful  
9 conduct.

10 And that's the state of the record.

11 THE COURT: Thank you. And I will add to the  
12 record the legal basis for the mandatory detention.

13 The offenses to which Mr. Bjerknes pleaded guilty  
14 both constitute crimes of violence under 18 U.S.C.  
15 3156(a)(4)(C) and these chapters include the offenses of  
16 coercion and enticement, Chapter 117, and production of  
17 child pornography, Chapter 110. Plus, the maximum statutory  
18 sentence for the offense of coercion and enticement is life  
19 imprisonment.

20 Under the United States Code, Section 3143(a)(2),  
21 when a defendant is found guilty of either a crime of  
22 violence or an offense for which the maximum sentence is  
23 life imprisonment, detention pending sentencing is mandatory  
24 unless I find that there's a substantial likelihood that a  
25 motion for acquittal or a new trial will be granted or an



1 attorney for the government has recommended that no sentence  
2 of imprisonment be imposed on the person and I find by clear  
3 and convincing evidence that the person is not likely to  
4 flee or pose a danger to anyone in the community.

5 Mr. Bjerknes's guilty plea negates the  
6 applicability of the first statutory exception regarding a  
7 motion for an acquittal or a new trial, and there's no  
8 indication that the government will recommend a sentence of  
9 no imprisonment. For that reason Mr. Bjerknes's detention  
10 is mandatory because neither exception is applicable.

11 And because mandatory detention applies here,  
12 Mr. Bjerknes is remanded to the custody of the United States  
13 Marshal at the conclusion of this hearing.

14 Mr. Bjerknes, you will be informed of the date of  
15 your sentencing hearing and I need to warn you that you are  
16 legally required to attend your hearing, your sentencing  
17 hearing, and failure to appear at a sentencing hearing is  
18 itself a crime for which you could be prosecuted.

19 Is there anything else that we need to take up at  
20 this time?

21 MS. MUNOZ-KAPHING: Nothing from the government,  
22 Your Honor. Thank you.

23 MR. WOLD: Your Honor, if I could make one  
24 request. Mr. Bjerknes traveled here this morning on his  
25 own. He was able to greet his wife, who is present in the

1 courtroom, prior to this hearing. His parents traveled a  
2 great distance to be here. They were caught in traffic and  
3 were unable to be here at the start of the hearing. If I  
4 could merely ask if Mr. Bjerknes could greet his parents in  
5 the well of the courtroom here before he's taken into  
6 custody, that's my only request.

7 THE COURT: I'm afraid that I'm not able to grant  
8 that request for security reasons and so that request is  
9 denied.

10 Is there anything further?

11 MS. MUNOZ-KAPHING: Nothing from the government,  
12 Your Honor.

13 THE COURT: I mean, I'm happy to have him stand,  
14 but we can't have any kind of contact with him and anyone  
15 else in the courtroom as he's about to be taken into  
16 custody. Understood?

17 MR. WOLD: Understood.

18 THE COURT: Understood, Marshals?

19 DEPUTY MARSHAL: Yes, ma'am.

20 THE COURT: We are in recess.

21 (Court adjourned at 9:08 a.m.)

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3 I, Lori A. Simpson, certify that the foregoing is a  
4 correct transcript from the record of proceedings in the  
5 above-entitled matter.

6  
7 Certified by: s/ Lori A. Simpson

8 Lori A. Simpson, RMR-CRR  
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LORI A. SIMPSON, RMR-CRR  
(651) 848-1225